

## **REMARKS**

The only issues outstanding in the Office Action mailed September 27, 2007, are the rejections under 35 U.S.C. 112, 102 and 103 and the doctrine of obviousness-type double patenting. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

### **Rejection Under 35 U.S.C. 112**

Cancellation of claim 10 obviates this rejection. It is noted that claim 10 is duplicative of claim 11, which is in a form more usual for U.S. practice. Thus, the scope of the claims has not been changed, either literally or for purposes of the doctrine of equivalents, by the cancellation of claim 10.

### **Rejections Under 35 U.S.C. 102**

#### ***Andou (U.S.P. 6,007,740 or 6,187,223)***

Claims 1, 4, 5, 7 and 9-11 have been rejected under 35 U.S.C. 102(b) over either Andou '740 or '223. Reconsideration of this rejection is respectfully requested.

At the outset, it is believed that the Examiner may have overlooked the alkenyl side chain in compounds of formula I in the present claims. Note that claim 1 recites a proportion of compounds of formula I in the medium of at least 18% by weight, and further recites that R<sup>1</sup> in formula I is a C<sub>2-8</sub>-alkenyl radical. Use example 32 of Andou, noted at page 3 of the Office Action, does not disclose a mixture containing alkenyl compounds. Withdrawal of the rejection is therefore respectfully requested.

#### ***Miyari (U.S.P. 6,497,929)***

Claims 1, 2, 4-5, 7 and 9-11 have been rejected under 35 U.S.C. 102(b) over Miyari. Reconsideration of this rejection is also respectfully requested.

Similarly to the discussion above of Andou, it is believed that the alkenyl end group in formula I has been overlooked. Neither comparative example 1 nor comparative example 2 of Miyari, noted at page 4 of the Office Action, contain alkenyl compounds. Withdrawal of this

rejection is therefore also respectfully requested.

***Takeshita (U.S.P. 6,325,949 or U.S.P. 6,315,922)***

Claims 1, 2, 4-5 and 7-11 have been rejected under 35 U.S.C. 102(b) over Takeshita '949 or '922. Reconsideration of this rejection is also respectfully requested.

Again, similarly to the foregoing discussion, examples 7-9 of Takeshita, discussed at pages 5 and 6 of the Office Action, do not disclose mixtures containing compounds with alkenyl end groups. Withdrawal of this rejection is therefore also respectfully requested.

***Andou (U.S.P. 5,961,881)***

Claims 1, 4-5, 7 and 9-11 have been rejected under 35 U.S.C. 102(b) over Andou '881. Reconsideration of this rejection is also respectfully requested. As with the above discussed Andou patents, the example noted at page 6 of the Office Action does not teach the use of alkenyl compounds *in combination* with 4-ring compounds having a CF<sub>2</sub>O-bridging group. Withdrawal of this rejection is therefore also respectfully requested.

***Heckmeier (U.S. Applications 2003/234,384 or 2005/40,365)***

At page 8, unspecified claims are rejected under 35 U.S.C. 102(e) over Heckmeier '776, '384 or '365. The specific formulae noted in the Office Action at page 8 do not fall within the scope of the present claims, in view of the proviso clause exclusion in claim 1. Support for the proviso clause may be found at page 56, lines 25 and 30, and, with respect to the definition of n, in the specification in the definition of R<sup>2</sup> as C<sub>1-15</sub>-alkyl. Withdrawal of these rejections is therefore also respectfully requested.

***Rejection Under 35 U.S.C. 103***

Claims 1 and 3-11 have been rejected under 35 U.S.C. 103 over Kirsch (U.S. Patent 6,723,866). Reconsideration of this rejection is respectfully requested. While the reference does disclose a compound of the formula I having a terminal-NCS group, as noted at page 7 of the Office Action, the patent fails to disclose or suggest a mixture concept employing a 4-ring compound having a terminal-NCS group *in combination* with alkenyl compounds of formula I. See, for example, use examples A and B of the patent. Accordingly, it is submitted that this reference does not suggest the presently claimed mixtures, and withdrawal of this rejection is respectfully requested.

***Double Patenting***

Claims 1-11 have been rejected over Heckmeier (U.S. Patent 7,175,891); Heckmeier (U.S. Patent 7,105,210) or Heckmeier (U.S. Patent 7,056,561). Reconsideration of this rejection is respectfully requested.

As noted in the discussion of the Heckmeier applications above, the claims of the three Heckmeier patents do not recite compounds falling within the scope of the present claims, in view of the proviso. Moreover, the Heckmeier patents do not suggest modifying any of the claimed mixtures therein so as to result in a mixture within the scope of the present claims. Accordingly, withdrawal of these rejections is also respectfully requested.

The claims of the application are submitted to be in condition for allowance. However, if the Examiner has any questions or comments, he is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Harry B. Shubin/

---

Harry B. Shubin, Reg. No. 32,004  
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410

Attorney Docket No.: MECK-3119

Date: March 27, 2008